

REMARKS

Claims 61-69 are pending. Applicants wish to thank the Examiner for the interview conducted by telephone on Tuesday, February 24, 2004 during which the outstanding rejection of the claims under 35 U.S.C. § 102(a) was discussed. Applicants also thank the Examiner for noting that claim 64 is allowed. Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

Information Disclosure Statement

In the Office Action mailed September 25, 2001, the Examiner noted that several references from the IDS sent October 19, 2000 were not considered (references AR, AS, BC-BG, BI-BK, CC, CE-CH, DF-DJ and EC-EG). While the references were submitted to and/or cited by the Patent and Trademark Office in a prior application, the Examiner indicated that the documents were not available. Applicants submit herewith copies of the references and respectfully request that they now be considered.

Rejection Under 35 U.S.C. § 102(a)

Claims 61-63 and 65-69 stand rejected under 35 U.S.C. § 102(a) as allegedly anticipated by WO 98/45328 (October 15, 1998) for the reasons of record. In particular, the Action contends that, while the polypeptide set forth in SEQ ID NO:299 is not specifically disclosed in the prior art, a person of ordinary skill would envisage the claimed polypeptide from the disclosed polynucleotide sequence of SEQ ID NO:292.

Applicants respectfully traverse this rejection. As discussed during the interview of Tuesday, February 24, 2004, Applicants submit that in the Office Action mailed June 6, 2003, the Office granted the priority date of December 11, 1997 to claim 64, directed to the polynucleotide set forth in SEQ ID NO:292. Claims 60-63 and 65-69, directed to the polypeptide set forth in SEQ ID NO:299, were granted the later priority date of April 9, 1999 because the polypeptide set forth in SEQ ID NO:299 was not disclosed until U.S. Application No. 09/289,198, filed April, 9, 1999. However, in the rejection under 35 U.S.C. § 102(a), in the Final Office Action mailed January 5, 2004, the Office asserts that while WO 98/45328 does not

disclose the polypeptide set forth in SEQ ID NO:299, a person of ordinary skill would envisage the claimed polypeptide from the disclosed polynucleotide sequence (*i.e.*, SEQ ID NO:292). Applicants respectfully submit that if the skilled person would envisage the claimed polypeptide from the disclosed polynucleotide sequence of SEQ ID NO:292, then claims 60-63 and 65-69 are entitled to the earlier priority date of December 11, 1997. Applicants thank the Examiner for indicating during the interview that following a discussion with her supervisor, claims 60-63 and 65-69 are indeed entitled to the earlier priority date. Accordingly, Applicants submit that the cited reference, WO 98/45328, filed October 15, 1998, is not prior art to the claimed invention which claims priority to U.S. Patent Application No.08/991,789, filed December 11, 1997.


In view of the above remarks, Applicants submit that the rejection under 35 U.S.C. § 102(a) has been obviated and may be properly withdrawn.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants respectfully submit that all the claims remaining in the application are now believed allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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Enclosure:

Postcard

Copy of PTO Form 1449 filed 10/19/00

Copy of cited references (24)

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